

Application No. 09/944,348
Amendment dated December 7, 2009
Reply to Office Action of July 6, 2009

REMARKS

Applicant amended claims 83 to 88 and added new claims 89 to 93 to further define Applicant's claimed invention. The amendment to claims 83 and 84 are supported in the description, for example, on page 13, line 18 to page 14, line 2 of the specification. New claim 89 is supported in the description, for example, on page 32, lines 7 to 8. New claim 90 is supported in the description, for example, on page 16, lines 6 to 8; and page 25, line 10 to page 26, line 11. New claim 91 is supported in the description, for example, page 9, lines 7 to 16; page 9, line 22 to page 10, line 8; page 10, line 17 to page 11, line 4; page 11, lines 16 to 20; page 21, lines 5 to 18; page 26, lines 12 to 23; and page 31, line 21 to page 32, line 8. New claim 92 is supported in the description, for example, on page 27, lines 1 to 5. New claim 93 is supported in the description, for example, on page 14, lines 12 to 15. The amendments to claims 83 to 88 were not made in response to any rejection of the Office Action.

In the Office Action, the Examiner rejected claims 83-88 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,872,588 to Aras et al. ("Aras"). Applicant respectfully traverses the rejection. Independent claim 83 recites a monitoring device that monitors "on a continuous basis," and an event timing device for "recording a time record of television viewer event occurrence." Aras teaches an apparatus for monitoring audio-visual materials presented to a subscriber. (Aras, Title). According to Aras, "[a]ll audio-visual material will be encoded with a unique Audio-Visual Identifier (AVI)" that is "provided at intervals in the audio-visual material." (Aras, col. 7, lines 31-34). Aras further discloses an AVI Timer that "allows the home station to determine when a channel is not providing AVI information." (Aras, col. 14, lines 55-56). According to Aras, "[t]he timer is started such that after a predetermined time, T_{avil} , the timer will create an event to be serviced by the event handler." (Aras, col. 14, lines 58-60). Once the event has been created, the home station identifies an appropriate event handling procedure to process the event. (Aras, col. 15, lines 4-6).

Aras does not teach or suggest a monitor that continuously monitors television viewer behavior as recited in Independent claim 83 because the AVI encoded in the audio-visual material of Aras is provided at intervals rather than continuously. (See, e.g., Aras, col. 7, lines 31-34). A system such as taught by Aras can result in a lag in

Application No. 09/944,348
Amendment dated December 7, 2009
Reply to Office Action of July 6, 2009

the time a television viewer causes an event and when the home station disclosed by Aras will process the event. Moreover, Aras does not teach or suggest a timer for recording a time record of television viewer events as recited in independent claim 83 because the timer disclosed by Aras operates on a predetermined time to create an event to be serviced by the event handler. (See, e.g., Aras, col. 14, lines 58-60). Accordingly, Applicant submits that independent claim 83 is patentable over Aras and requests that the rejection be withdrawn.

Applicant submits that new independent claim 91 is patentable at least for reasons similar to those set forth above.

Applicant submits that independent claims 83 and 91 are patentable and that dependent claims 84-90, 92 and 93 dependent from one of independent claims 83 or 91, or claims dependent therefrom, are patentable at least due to their dependency from an allowable independent claim.

In view of the foregoing remarks, it is respectfully submitted that the claims, as amended, are patentable. Therefore, it is requested that the Examiner reconsider the outstanding rejections in view of the preceding comments. Issuance of a timely Notice of Allowance of the claims is earnestly solicited.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-1068.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: December 7, 2009

By: 
Amadeo F. Ferraro
Registration No. 37,129

1557 Lake O'Pines Street, NE
Hartville, Ohio 44632
Telephone: (330) 877-0700
Facsimile: (330) 877-2030